IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl.MC.No. 4017 of 2006()

CRA.887/2005 of I ADDL.SESSIONS COURT, ERNAKULAM
CC.1480/2004 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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PETITIONER:

GANESH, S/O.SANKARAN,
SANKAR NIVAS, AGED 29 YEARS,
NEAR RAJAN PICTURE PALACE, NAGARKOVIL TALUK,
KANYAKUMARI DISTRICT, TAMILNADU.

BY ADV. SRI.P.JIMMY JOHN

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

Addl: 2. THE SUPERINTENDENT,
CENTRAL PRISON,
VIYYOOR.

IS IMPLEADED AS ADDITIONAL R2 AS PER ORDER
DATED 20/12/06 IN CRL.M.C.NO.4017/06.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 4017 OF 2006

Dated this the 7th day of February, 2007

ORDER

The grievance of the petitioner was that set off to which he is legally entitled under Sec.428 of the Cr.P.C. is not being given to him by the authorities - the Magistrate and the prison authorities. I had heard all the parties concerned and had issued directions dated 1/2/2007 to the learned Magistrate. The learned Magistrate has now by letter dated 5/2/2007 informed this Court as follows:

> "On perusal of the records and judgments it reveal that the accused is entitled to get benefit of set off u/s 428 Cr.P.C. from 24.4.04 in all the above said cases viz., in CC. 2029/04 from 24.4.2004 to 26.8.2004, in CC.1592/04 from 24.4.04 to 29.5.04, in CC.1575/04 from 24.4.04 to 21.5.04 in CC.1505 from 24.4.04 to 13.5.04, in CC.1614/04 from 24.4.04 to 28.6.04, in CC.1477/04 from 24.4.04 to 13.5.04, in CC.1506/04 from

> 24.4.04 to 29.5.04 and in CC.1480/04 from 24.4.04 to 13.5.04. Therefore modified execution warrants issued in all the cases and the Superintendent, Central, Prison, Viyyoor is directed to execute the sentence based on the modified execution warrant."

2. The precise grievance of the petitioner was that he was not being granted the benefit of set off from 24/4/04 in all cases. Inasmuch as that has been granted by the learned Magistrate after perusing the records, the petitioner does not have any surviving grievance or request except that these directions must be carried out by the prison authorities. In the light of the clear statements made above, I find no reason to assume that the directions shall not be carried out. Needless to say that the prison authorities must carry out the directions of the learned Magistrate. If the petitioner has any grievance that the directions are not being carried out, the petitioner can, of course, approach the learned Magistrate for implementation of the directions issued by the learned Magistrate. No further

relief/orders need be issued in this case.

3. This Crl.M.C. is, in these circumstances, dismissed with the above observations.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge